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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,093	10/09/2003	Marty R. Jordan	JOR001-092	8107

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DIEDERIKS & WHITELAW, PLC
#301
12471 Dillingham Square
Woodbridge, VA 22192

EXAMINER

MARKOFF, ALEXANDER

ART UNIT	PAPER NUMBER
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1746

DATE MAILED: 10/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/681,093

Applicant(s)

JORDAN ET AL.

Examiner

Alexander Markoff

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/09/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims require “substantially lowers” (claim 1) or “significantly reduce” (claim 11). These terms are relative terms lacking proper comparative basis. The use of these terms makes claims indefinite.

Claims 1-10 are indefinite because the term “the level of sound” lacks proper antecedent basis.

Claims 4-6 are indefinite because the term “the horizontal top surface” lacks proper antecedent basis.

Claims 4-6 are indefinite because the term “the bottom edge portion” lacks proper antecedent basis.

Claim 9 is indefinite because the term “the bottom edge portion” lacks proper antecedent basis.

Claim 9 is indefinite because the term “the sealing surface” lacks proper antecedent basis.

Claims 12-19 are indefinite because the term “the attenuating means” in claim 12 lacks proper antecedent basis.

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Claim 16 is indefinite because the term "the bottom edge portion" lacks proper antecedent basis.

Claims 20-22 are indefinite because the term "the attenuating means" in claim 20 lacks proper antecedent basis.

Claims 21-22 are indefinite because the term "the dishwasher attenuating means" in claim 21 lacks proper antecedent basis.

Election/Restrictions

3. It is noted that the disclosure recites distinct species of the sound sealing arrangement (different seals, trays, connections between seal, tray, door, etc). The instant claims are indefinite and were interpreted at the best examiner's understanding. It is noted that an election of the species of the seal, tray, connecting arrangement could be made upon clarification of the claims.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-22 are rejected under 35 U.S.C. 102(b) as anticipated by Kaldenberg (US Patent No 3,529,881).

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Kaldenberg teaches a dishwasher with sound proofing means. See entire document, especially Figure 5 and the related description.

The dishwasher of Kaldenberg comprises conventional parts, such as tub, walls, frame, etc.

The dishwasher comprises door (11), control (16), sound proofing panel (20), and front part (17).

The limitations of what is referenced by the claims as sound tray and flexible seal are met by the disclosure of the combination of part (20) and part (17).

For the claims requiring different shapes and connection arrangements of the claimed seal, portions of the seal and tray: it is noted that what is referenced by the claims as the sound tray can be interpreted as different combination of parts 17, 24, 33, 32.

As to claim 22, which requires a cable and actuating member attached to the cable and the tray: Kaldenberg teaches conventional control mechanism 16. Control mechanism 16 is connected to one end of part 23, which is interpreted as the actuating member. One end of part 23 is pivotally attached to parts 32, 33, 24, 17 (the sound tray). Control 16, which is attached to the other end of part 23, inherently includes attached electrical cables.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patents 6,539,955 and 7,041,377 and GB 2,201,866 are cited to show the state of the prior art with respect to sound isolation of dishwashers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Markoff whose telephone number is 571-272-1304. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on 571-272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Alexander Markoff
Primary Examiner
Art Unit 1746

AM

ALEXANDER MARKOFF
PRIMARY EXAMINER